

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO**United States District Court**

JAN 05 2017

JH

STATE and DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

v.

MATTHEW J. DYKMAN

CRIMINAL COMPLAINT

MARK E. GARCIA
YOB: 1972

CASE NUMBER:

17mj24

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about December 29, 2016 in Sandoval County, in the State and District of New Mexico

The defendant, Mark E. Garcia, an Indian male, unlawfully assaulted an Indian female, by striking her in multiple locations with a closed fist and placed his knee on her neck, resulting in serious bodily injury by restricting her normal breathing as a result of the assault. The assault occurred in Indian Country, within the exterior boundaries of the Santo Domingo Indian Reservation in the District of New Mexico.

in violation of Title 18 United States Code, Section(s) Section 1153), 113(a)(6), 113(a)(8).

I further state that I am a Special Agent of the Bureau of Indian Affairs and that this complaint is based on the following facts:

See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof:



Yes



No

SAUSA – Kyle T. Nayback

F. Chavez

Signature of Complainant

Franklin D. Chavez, Special Agent
Bureau of Indian Affairs – Office of Justice Services

Sworn to before me and subscribed in my presence,

Date

January 5, 2016 2017 KBM

at

Albuquerque, New Mexico

City and State

KAREN B. MOLZEN
U.S. MAGISTRATE JUDGE

Name & Title of Judicial Officer

Karen B. Molzen

Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)

VS.)

MARK E. GARCIA (YOB: 1972)

Case No: _____

AFFIDAVIT

1. I, Franklin D. Chavez Jr. have been a Law Enforcement Officer for 20 years and have performed various law enforcement duties as a Police Officer, Correctional Officer, Criminal Investigator, Special Agent, Internal Affairs Agent, and Professional Standards Division Agent, while employed with various Law Enforcement entities. For the past 17 years, I have been employed with the Bureau of Indian Affairs (BIA), Law Enforcement Division and am currently a Special Agent. My primary duties as a Special Agent are to investigate major criminal offenses, which occur within the exterior boundaries of the Indian reservations to which I am assigned. Assaults are one of my responsibilities. The information set forth in this affidavit is known to me as a result of my own investigation or has been communicated to me by other law enforcement officers, agencies or agents.

2 Because this affidavit is being submitted for the purpose of securing a Warrant for Arrest, I have not included each and every fact known to me concerning this investigation. I have set forth facts I believe are necessary to establish probable cause to arrest MARK E. GARCIA (YOB: 1972) for the Assault of JANE DOE (YOB: 1978), in

violation of Title 18, United States Code(s), Section 1153, 113(a)(6) & 113(a)(8). MARK E. GARCIA will be referred to as GARCIA within this affidavit.

3. On or about December 29, at about 11:30 pm, the BIA Police received notification of an assault related to a domestic violence incident near a residence in Santo Domingo, New Mexico. Officers made contact with JANE DOE west of #140 Highway 22 and provided a statement. JANE DOE stated during the evening hours of Thursday, December 29, 2016, between 10:00 – 11:30 pm she was assaulted by GARCIA. JANE DOE and GARCIA were consuming alcohol when she and GARCIA engaged in a verbal altercation when GARCIA suddenly, and without warning, punched her on the left side of her head. JANE DOE ended up on the floor inside an abandoned camper where she was repeatedly punched, and dragged by her hair. The punches struck JANE DOE'S facial and head areas. JANE DOE was treated at the scene by Santo Domingo Emergency Medical Services who responded and advised she had bruising and scratches throughout her body, face and head areas. According to BIA Police, GARCIA had fled from the scene prior to their arrival and was not located during the evening.

4. On December 30, 2016, Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) Special Agent (SA) CHAVEZ interviewed JANE DOE inside the Kewa Safety Complex building located within the exterior boundaries of the Santo Domingo Pueblo Reservation. JANE DOE stated she and GARCIA have been in an intimate relationship since April 2016 and they were currently living together inside the abandoned camper located west of #140 Highway 22, next to Nick Garcia's residence

located within the exterior boundaries of the Santo Domingo Pueblo Reservation. JANE DOE advised on December 29, 2016, during the evening hours she and GARCIA were consuming alcohol beverages. She mentioned GARCIA had been consuming alcoholic beverages throughout the day. JANE DOE stated throughout the evening GARCIA made derogatory remarks toward JANE DOE and accused her of infidelity. She recalled GARCIA threatening her with serious bodily harm during the evening. JANE DOE indicated she was sitting on a bed in the camper with GARCIA sitting next to her. Without warning, GARCIA punched her on the left side of the head. JANE DOE remembered being punched repeatedly throughout her body, face and head areas. She then recalled being drug by her hair, which caused her to fall onto the floor inside the camper. She told GARCIA to stop. JANE DOE stated she does not know why GARCIA hit her and described GARCIA as being a jealous person. JANE DOE affirms she did not provoke GARCIA and did not physically retaliate to the assault by striking back. She indicated while on the floor of the camper, GARCIA held onto her hair and placed his knee on the right side of her neck causing her to have difficulty breathing. Based upon my training and experience, attempted strangulation and strangulation may cause a substantial risk of death. JANE DOE said she began to feel dizzy as she was struggling to breathe. She recalled grabbing GARCIA's testicles to prevent the assault from escalating any further. JANE DOE stated once GARCIA stopped his action, she got up from the floor and eventually let her grasp go. She recalled once she let go, GARCIA begin to strike her again. JANE DOE said they began to scuffle and she again grabbed GARCIA by his testicles. She exited the camper and eventually took off on foot leaving GARCIA behind. JANE DOE said she immediately called 911 after fleeing from the

scene. JANE DOE received bruising and swelling in the following areas; on her forehead, on her right eye, above and below the right eye, on the tip of her nose, under the left eye, above the lips just below the nose, on & behind her right ear, on the right back side of her shoulder, behind her neck, below & behind her left ear area, in front of her shoulder, scratches on the left side of her neck, bruising on top of the head in three different areas, and bruising and discoloration on the right side of her neck as a result of being suffocated by the suspect's knee.. JANE DOE states she was able to walk and move normally before the assault and had difficulty walking immediately after the incident. SA CHAVEZ verified the injuries in person and took photographs of JANE DOE's injuries.

5. On Friday, December 30, 2016, Bureau of Indian Affairs, Office of Justice Service Special Agent Franklin Chavez assumed investigative authority in this case is the Lead Case Agent.

6. The victim is (P.Y.) 7C 10 1978), a Native American female and an enrolled tribal member of the Navajo Nation, State of New Mexico.

7. The suspect is **MARK E. GARCIA** (03/01/1972), a Native American male and an enrolled tribal member of the Santo Domingo Pueblo Indian Tribe, State of New Mexico.

8. The assault occurred in an abandoned camper west of Nick Garcia's residence located at #140 Highway 22, in the Domingo residential area of Santo Domingo Pueblo. This residence is located within the exterior boundaries of the Santo Domingo Indian Reservation, State of New Mexico.

9. Based on the above mentioned facts, known to me concerning this investigation, your Affiant believes probable cause exists to arrest **MARK E. GARCIA (YOB: 1972)** for the Assault Resulting in Serious Bodily Injury and Assault by Suffocation in violation of Title 18, United States Code, Sections 1153, 113(a)(6), & 113(a)(8).

A review of the criminal complaint was made by Supervisory Assistant United States Attorney Kyle T. Nayback, State and District of New Mexico

I swear this information is the truth to the best of my knowledge and belief.



Franklin D. Chavez Jr.
Special Agent
BIA/OJS Southern Pueblos Agency

Subscribed and Sworn to before me
This 5th Day of January 2017



United States Magistrate Judge